

APPEAL NO. 023138
FILED FEBRUARY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 14, 2002. The hearing officer determined that the date of the respondent/cross-appellant's (claimant herein) alleged injury was _____; that the claimant did not sustain a compensable injury; that the claimant did not have disability; and that the appellant/cross-respondent (carrier herein) is not relieved of liability because the claimant timely reported her injury to the employer. The claimant files a request for review, appealing the hearing officer's determinations that the claimant did not sustain a compensable injury and did not have disability. The claimant also alleges error in the admission of a document that the claimant asserts was not exchanged without good cause, in that the court reporter's transcript of the CCH is incomplete, and in that there was breach of confidentiality regarding the claimant's medical records. The carrier responds, arguing that there is sufficient evidence to support the hearing officer's resolution of the injury and disability issues; that the same evidence contained in the exhibit the claimant contends should have been excluded was cumulative; that the claimant failed to show that the court reporter's transcript of the CCH was incomplete; and that the claimant failed to prove either a breach of confidentiality or that such a breach would constitute reversible error. The carrier files a request for review contending that the evidence established that the claimant did not timely report her injury to her employer, and that the carrier should therefore be relieved of liability pursuant to Section 409.002. There is no response from the claimant to the carrier's request for review in the appeal file.

DECISION

Finding that the carrier's appeal was conditioned upon the filing of an appeal by the claimant and the claimant's appeal not having been timely filed, we determine that the decision and order of the hearing officer have become final pursuant to Section 410.169.

Although the carrier's appeal was not expressly made conditional on the filing of an appeal by the claimant, we will treat it as a conditional appeal because the carrier prevailed at the CCH and is not aggrieved by the hearing officer's decision and order. See Texas Workers' Compensation Commission Appeal No. 990212, decided March 18, 1999.

A request for review is timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, and if it is received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202(a) and (d); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). In her

appeal, the claimant states that she received the hearing officer's decision on November 22, 2002. To be timely, the claimant's appeal must have been mailed on or before December 17, 2002, and received by the Commission not later than December 27, 2002. The claimant's appeal indicates that it was mailed to the Commission by certified mail on November 25, 2002. That copy of the appeal was not received by the Commission. On January 2, 2003, a copy of the claimant's appeal was faxed to the Commission and the appeal was stamped as received on that date. That document contains two receipts for certified mail with one addressed to the carrier and one addressed to the Commission. However, it does not include a green card showing delivery to the Commission. Thus, the appeal is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is:

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Michael B. McShane
Appeal Panel
Manager/Judge